

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

BUILDERS BANK, Plaintiff/Counter- Defendant, v. THE BANK OF NEW YORK MELLON, Defendant/Counter- Plaintiff.	Case No. 12-cv-200 Honorable Harry D. Leinenweber
THE BANK OF NEW YORK MELLON Cross-Plaintiff, v. NEWLAND GROUP, LLC, RB GROUP DEVELOPMENT, INC, and J.M.C. CONTRACTING CORP., Cross-Defendants.	

MOTION FOR ENTRY OF JUDGMENT RESOLVING ALL CLAIMS

The Bank of New York Mellon (“BNY”), by and through its undersigned counsel, hereby moves for the entry of the Judgment Order Resolving All Claims, and states as follows:

1. On January 11, 2012, Builders filed an action against BNY seeking to recover certain proceeds (collectively the “Proceeds”) from an insurance policy (the “Policy”) issued by Chubb Group of Insurance Companies, or its affiliates (“Chubb”), and drawn on an account held by BNY.

2. On April 11, 2012, BNY filed an answer and counterclaim, pursuant to which it, among other things, identified Newland Group, LLC (“Newland”) and RB Group Development, Inc. (“RBGD”) as additional payees under the policy and sought to quiet any interest the Cross-Defendants may have in the Proceeds.

3. BNY interpled certain Proceeds from the Policy in its possession (collectively, the “Disputed Funds”) with the Clerk of Court.

4. On December 6, 2012, after an additional details related to the dispute came to the attention of BNY, BNY filed its Amended Answer, Affirmative Defenses, Counterclaim and Crossclaim of Interpleader by BNY Mellon, N.A., pursuant to which it included an additional claim seeking a declaratory judgment that a certain check dated November 12, 2012, made payable to Newland and J.M.C. Contracting Corp. (“JMC”) in the amount of \$48,860.00, and identified by check number 6263547 (the “Third Check”) was not improperly endorsed.

5. BNY has served Builders, Newland, RBGD and JMC (collectively, the “Cross-Defendants”) with service of process in accordance with the applicable rules, and the deadline for Cross-Defendants to answer or otherwise plead has expired with no answer or responsive pleading having been filed by any of the Cross-Defendants.

6. On February 5, 2013, BNY filed a motion for default and for judgment against Newland, RBGD and JMC, pursuant to which it seeks: (i) to quiet any right claim or interest those parties may have in the Disputed Funds, the Policy and/or the Proceeds; and (ii) entry of a declaratory judgment finding that BNY has no liability to the Cross-Defendants for honoring the Third Check.

7. In light of the anticipated default judgment against Newland, RBGD and JMC, BNY and Builders have discussed the possible resolution of the remaining claims asserted by Builders against BNY, and have negotiated the terms of a proposed resolution to this litigation.

WHEREFORE, for the reasons stated hereon, The Bank of New York Mellon requests that: (i) this Court enter the Judgment Order Resolving All Claims attached hereto as Exhibit A

thereby resolving all claims asserted by Builders against BNY, and (ii) this Court grant any other and further relief that may be appropriate under the circumstances.

THE BANK OF NEW YORK MELLON

By: _____
One of Its Attorneys

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CERTIFICATE OF SERVICE

I, Ann E. Pille, hereby certify that on February 5, 2013, I caused a copy of the foregoing Motion for Entry of Judgment Order Resolving All Claims (the “Motion”) to be filed in the above-captioned proceeding. Notice of this filing was sent automatically, via the Court’s CM/ECF system, to each party that has filed an electronic appearance in this proceeding. In addition, on February 5, 2013, I caused a copy of the Motion to be served on the following persons via United States mail, first class, postage prepaid:

Newland Group, LLC
c/o Samuel Racer
250 West 57th Street, Suite 919
New York, NY 10107

RB Group Development, Inc.
614 Sheepshead Bay Rd.
Brooklyn, NY 11224

J.M.C. Contracting Corp.
7618 13th Avenue
Brooklyn, NY 11228-2412

J.M.C. Contracting Corp.
54 Oakdale Street
Staten Island, New York 10314

/s/ Ann E. Pille
Ann E. Pille (ARDC No. 6283759)